

REMARKS

1. INTRODUCTION

Claims 1-18 are presently pending in this application. Applicants respectfully request further examination and reconsideration of the application.

2. ELECTION OF SPECIES OF INVENTION

Applicants hereby elect, with traverse, the species shown in Figures 1-2 of the application. Applicants disagree with Examiner that none of the claims are generic and submit that claims 1-5 are generic to the species identified as Species I, II, and III by the Examiner. Further, Applicants submit that each of the claims 1-12 reads on the elected Species I.

3. TRAVERSAL

The requirement for an election of species for prosecution on the merits is respectfully traversed. There are two criteria for proper restriction:

1. The inventions must be independent or distinct as claimed;
2. There must be a serious burden on the examiner if restriction is not required (MPEP § 803).

Accordingly, a restriction is proper only when the restricted inventions are independent and patentably distinct (MPEP § 803). Further, the burden is on the examiner to provide reasons and/or examples in support of restriction (MPEP § 803). The Office has not carried this burden.

The Examiner asserts that (a) Species I includes embodiments drawn to a single cable attenuator having the particular mounting bracket shown in Figures 1 and 2; (b) Species II includes embodiments drawn to a single cable attenuator having the particular mounting bracket shown in Figure 3; and (c) Species III includes embodiments drawn to a double cable attenuator shown in Figure 4. Applicants assert that beyond suggesting distinct species, the Office has not proven a “serious burden” if the restriction is not required. Applicants submit that a search and examination of the entire application can be made without serious burden. Applicants therefore request withdrawal of the requirement for an election of species.

App. No. 10/727,067
Amendment dated 02/24/2006
Reply to Office Action of 01/24/2006

If the Examiner has any further questions regarding the matter, the Examiner is directed to contact the Applicants' undersigned attorney.

Respectfully submitted,

Date: February 24, 2006

By: 

Adam B. Strauss
Reg. No. 43,167
Dykema Gossett PLLC
39577 Woodward Avenue, Suite 300
Bloomfield Hills, MI 48304
(248) 203-0764
ipmail@dykema.com
Customer No. 26127

BH01\601678.1
ID\ABST